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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,368	05/18/2007	Bjorn Bunte	P2520US00	8126
30671	7590	06/10/2010	EXAMINER	
DITTHAVONG MORI & STEINER, P.C. 918 Prince Street Alexandria, VA 22314			DOAN, TRANG T	
			ART UNIT	PAPER NUMBER
			2431	
			NOTIFICATION DATE	DELIVERY MODE
			06/10/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/591,368	BUNTE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	TRANG DOAN	2431	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 March 2010.

2a) This action is **FINAL**.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 89-126 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 89-126 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 31 August 2006 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>04/2010</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 03/08/2010.
2. Claims 1-88 have been canceled.
3. Claims 89-126 are pending for consideration.

#### ***Response to Arguments***

4. The 112, 1<sup>st</sup> paragraph, rejection, 112, 2<sup>nd</sup> paragraph, rejection, 101 rejection and claim objections have been withdrawn in view of claims cancellation by amendment filed on 03/08/2010.
5. Applicant's arguments with respect to claims 89-126 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Information Disclosure Statement***

6. The information disclosure statement (IDS) submitted on 04/01/2010 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 117-126 are rejected under 35 U.S.C. 101 because the claims recite of a computer readable storage medium, the applicant's specification fails to describe what

constitutes the types of computer readable storage medium and the examiner is interpreting the computer readable storage medium as being a data signal embodied in a carrier wave. Carrier waves do not fall into the four statutory classes of invention and the examiner suggests amending the claims to recite that the computer readable storage medium is "non-transitory" in order to overcome the rejection.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 89-91, 94-96, 98-109, 112-119 and 122-126 are rejected under 35 U.S.C. 102(e) as being anticipated by Cochran et al. (US20050154787) (hereinafter Cochran).

11. Regarding claim 89, 107 and 117, Cochran discloses a method comprising: causing, at least in part, establishment of a wireless communication connection between a mobile terminal and a server stored with a gaming application (Cochran: paragraph 0019: use the wireless network to download software (i.e., game applications)); causing, at least in part, establishment of a data network connection between the mobile terminal and the server (Cochran: paragraph 0021: the

communication between a user using a wireless device and the communication tower can be based on...other protocols that may be used in a wireless communications network and paragraph 0031); and causing, at least in part, downloading of the gaming application from the server to the mobile terminal via the data network connection and the wireless communication connection (Cochran: paragraph 0026: the application menu may be downloaded to the wireless device along with the driver and refreshed periodically and paragraph 0031: The applications may include video games).

12. Regarding claim 90, 108 and 118, Cochran discloses wherein the gaming application is downloaded simultaneously using the wireless communication connection and the data network connection (Cochran: paragraph 0021 and paragraph 0023).

13. Regarding claim 91, 109, and 119, Cochran discloses further comprising: authenticating the mobile terminal via the wireless communication connection while downloading the gaming application via the data network connection (Cochran: paragraph 0026: the server may request that the user be a subscriber and require the user's identity and a password or other authentication data to be authenticated before the menu is downloaded to the wireless device).

14. Regarding claim 94, 112 and 122, Cochran discloses wherein the server permits downloading of the gaming application to only the mobile terminal (Cochran: paragraph 0026).

15. Regarding claim 95, 113 and 123, Cochran discloses wherein the wireless communication connection is established over a public land mobile network that

performs at least one of authentication, authorization and payment procedures (Cochran: paragraph 0026).

16. Regarding claim 96, 114 and 124, Cochran discloses wherein the wireless communication connection is initiated by the mobile terminal or the server (Cochran: paragraph 0021 and paragraph 0023).

17. Regarding claim 98, Cochran discloses causing, at least in part, storage of the downloaded gaming application into an interchangeable mass storage (Cochran: paragraph 0027).

18. Regarding claim 99, 115 and 125, Cochran discloses wherein the data network connection includes at least a local connection between an apparatus and the mobile terminal, and a sub-data network connection between the apparatus and the server, and the apparatus adapts the mobile terminal to the sub-data network connection (Cochran: see figure 1 and paragraph 0021).

19. Regarding claim 100, 116 and 126, Cochran discloses wherein the sub-data network connection includes at least one of an analog telephone line connection, a digital telephone line connection, a broadband cable connection, a powerline communication connection, a glass fiber connection, a satellite downlink, an Ultrawideband connection, and a line of sight transmission connection (Cochran: paragraph 0021).

20. Regarding claim 101, Cochran discloses wherein the local connection between the mobile terminal and the apparatus is established by the mobile terminal (Cochran:

paragraph 0026: wireless device sends a request to the server for a menu of available applications).

21. Regarding claim 102, Cochran discloses wherein the sub-data network connection between the apparatus and the server is initiated by the mobile terminal (Cochran: paragraph 0021).

22. Regarding claim 103, Cochran discloses wherein the local connection between the mobile terminal and the apparatus is established via a short-range wireless communication connection (Cochran: paragraph 0035: Bluetooth).

23. Regarding claim 104, Cochran discloses wherein the apparatus is built in the mobile terminal (Cochran: paragraph 0023 and paragraph 0032: the plug-in peripheral devices may be inserted into a dedicated plug-in slot or a built-in connector that may include power and functional contacts).

24. Regarding claim 105, Cochran discloses wherein the settings of the apparatus are controlled by the mobile terminal or the server (Cochran: paragraph 0023: controller is responsible for controlling all operations of the wireless device).

25. Regarding claim 106, Cochran discloses wherein the settings include at least one of an address, a upload data rate, a download data rate, a packet size, a repeat rate, fragmentation, coding, and scrambling (Cochran: paragraph 0024: controller may retrieve the peripheral device information (i.e., an address) by accessing a predefined memory assigned to the plug-in slot).

***Claim Rejections - 35 USC § 103***

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claims 92-93, 110-111 and 120-121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cochran in view of Skog et al. (US20040260816) (hereinafter Skog).

28. Regarding claim 92, 110 and 120, Cochran does not disclose wherein the mobile terminal is authenticated by either a cellular phone number of the mobile terminal, a serial number of the mobile terminal, a serial number of a subscriber identification member (SIM) card, or a serial number of a computer readable storage medium carrying only an initialization engine and a game communication control engine of the gaming application. However, Skog discloses wherein the mobile terminal is authenticated by either a cellular phone number of the mobile terminal, a serial number of the mobile terminal, a serial number of a subscriber identification member (SIM) card, or a serial number of a computer readable storage medium carrying only an initialization engine and a game communication control engine of the gaming application (Skog: paragraph 0010 and paragraph 0018). Therefore, it would have been obvious to a person skilled art at the time the invention was made to have included in Cochran the feature of Skog as discussed above to protect a secure resource which can only be accessed by a legitimated subscriber identification number.

29. Regarding claim 93, 111 and 121, wherein at least one of the SIM card and the computer readable storage medium is used in conjunction with different mobile terminals to download the gaming application (Cochran: paragraph 0023).

30. Claim 97 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cochran in view of Thielke et al. (US6324564) (hereinafter Thielke).

31. Regarding claim 97, Cochran does not disclose initiating by the server a call back function. However, Thielke discloses initiating by the server a call back function (Thielke: column 5 lines 1-20). Therefore, it would have been obvious to a person skilled art at the time the invention was made to have included in Cochran the feature of Thielke as discussed above to improve the efficacy of IP-based applications when running over wireless or other mobile networks (Thielke: column 2 lines 49-51).

### ***Conclusion***

32. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRANG DOAN whose telephone number is (571)272-0740. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Trang Doan/  
Examiner, Art Unit 2431

/Syed Zia/  
Primary Examiner, Art Unit 2431